

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

MICHAEL CHANDLER,

Intervenor,

v.

HARGIS INDUSTRIES, L.P.

Defendant.

**CIVIL ACTION NO.
6-05-CV320**

CONSENT DECREE

THIS CONSENT DECREE is made and entered into by and between the Equal Employment Opportunity Commission ("EEOC"), Michael Chandler, Intervenor ("Chandler") and Hargis Industries, L.P. ("Defendant") in the United States District Court for the Eastern District of Texas, Tyler Division, with regard to the EEOC's Complaint, filed in Civil Action No. 6-05CV320. The Complaint was based upon a Charge of Discrimination filed by Michael Chandler, Charging Party, against the Defendant, Charge No. 310-2004-02506.

The above- referenced Complaint filed by EEOC alleges that the Defendant violated Title VII of the Civil Rights Act of 1964, as amended, by discriminating against Michael Chandler by subjecting Michael Chandler to racial harassment and a hostile work environment because of his race, African American and by unlawfully retaliating against Michael Chandler by terminating his employment because of his opposition to employment practices believed to be unlawful under Title VII. Mr Chandler intervened as a party plaintiff and filed his Complaint on February 22, 2006. The

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Defendant denies all of the allegations made in the Complaint filed by EEOC and Mr. Chandler. By execution of this Consent Decree, Hargis Industries L.P. does not acknowledge in any respect the allegations asserted by EEOC and/or Mr. Chandler.

The EEOC and the Defendant agree to compromise and settle the differences embodied in the Complaints filed by EEOC and Mr. Chandler and intend that the terms and conditions of the compromise and settlement be set forth in this Consent Decree ("Consent Decree").

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues raised in the EEOC Charge. This Decree further resolves all issues in the Complaints filed by the EEOC and Mr. Chandler in this civil action. The EEOC and Mr. Chandler waive and fully and finally release further claims and/or litigation on all issues raised or which could be raised in the above referenced Charge and Complaints. The EEOC does not waive processing or litigating Charges other than the above-referenced Charge.

2. Defendant Hargis Industries, L.P. agrees that it shall conduct all employment practices in a manner that does not subject any employee to discrimination on the basis of race, as prohibited by Title VII of the Civil Rights Act of 1964, as amended.

3. Defendant Hargis Industries, L.P. agrees to post the Notice appended hereto as Attachment "A" on the employee bulletin boards at all Hargis Industries, L.P. locations in Tyler, Texas, including Sealtite Fasteners and E.T. Fasteners within ten (10) days after the entry of this Consent Decree. Defendant Hargis Industries, L.P. will report to the EEOC that it has complied with this requirement within 14 days after posting the Notice. The Notice shall remain posted during the

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term of this Consent Decree.

4. Defendant Hargis Industries, L.P. shall develop and implement a written policy prohibiting discrimination in the workplace, including race discrimination, and including a complaint procedure for employees to notify Defendant Hargis Industries, L.P. of any alleged complaints of discrimination. Defendant Hargis Industries, L.P. agrees to distribute the policy to all employees within 90 days after the entry of this Consent Decree. Defendant Hargis Industries, L.P. will provide a copy of the policy to EEOC and will report to the EEOC that it has complied with these requirements within 14 days after distributing the policy to its employees.

5. Defendant Hargis Industries, L.P. agrees to conduct a training session each year during the term of this Consent Decree for all supervisory and management employees of Hargis Industries, L.P., including those supervisory and management employees of Sealtite Fasteners and E.T. Fasteners, advising them of the requirements and prohibitions of the federal anti-discrimination laws with special emphasis on race discrimination. The training will inform the employees of the complaint procedure for individuals who believe they have experienced discrimination. The training will also advise management and the supervisory employees of the consequences of violating the federal anti-discrimination laws. Each training session shall be at least one hour in duration. The Defendant will provide EEOC with a copy of all materials used in the first year of training within 30 days of the training. The Defendant will send an acknowledgement to the EEOC when the second training occurs.

6. During the term of this Consent Decree, supervisors and managers for Defendant Hargis Industries, L.P., will provide Defendant's written policy to all employees they supervise and will inform employees they supervise about the policy, and the complaint procedure for individuals

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who believe they have experienced discrimination.

7. Defendant agrees to remove from all personnel files of Michael Chandler all documents, entries and references relating to: the facts and circumstances which led to the filing of his Charge of Discrimination; the Charge itself; and the Complaint filed by the EEOC and Mr. Chandler in federal court based upon his Charge. Defendant Hargis Industries, L.P. will report to the EEOC within 14 days of the entry of this Consent Decree regarding its compliance with this paragraph.

8. Defendant Hargis Industries, L.P. agrees to provide Michael Chandler with a neutral letter of information including positions held, dates of employment and salary.

9. Defendant agrees that it will advise all managers and supervisors of their duty to actively monitor their work areas to ensure employees' compliance with the company's policy against race discrimination, and to report any incidents and/or complaints of race discrimination of which they become aware to the persons charged with handling such complaints.

10. Defendant Hargis Industries, L.P. agrees that there shall be no discrimination or retaliation of any kind against any person working for the Defendant because of opposition to any practice declared unlawful under Title VII or because of the filing of a Charge; giving testimony or assistance or participating in any manner in any investigation, proceeding or hearing under Title VII.

11. Defendant Hargis Industries, L.P. agrees to pay to Mr. Chandler the full and final sum of \$30,000.00 and no/100 dollars in compromise and full satisfaction of all claims, which were or could be raised in this cause.

12. The payment referenced in paragraph 11, above, shall be made within 21 days of the issuance of this Consent Decree. Defendant Hargis Industries, L.P. agrees to report to the EEOC

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within 14 days after the payment referenced in paragraph 11 regarding its compliance with this paragraph..

13. All reports to the EEOC required by this Decree shall be sent to William C. Backhaus, Senior Trial Attorney, EEOC, 207 South Houston Street, Third Floor, Dallas, Texas 75202.

14. If Defendant Hargis Industries, L.P. fails to tender payment or otherwise fails to timely comply with the terms of paragraph 11 above, Defendant Hargis Industries, L.P. shall, as applicable:

- a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and
- b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.

15. Neither the EEOC, Chandler nor Defendant Hargis Industries, L.P. shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court for the Eastern District of Texas, Tyler Division to enforce this Consent Decree and its terms or the right of any party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by any such party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Defendant Hargis Industries, L.P. fails to perform the promises and representations contained herein. EEOC will provide the Defendant with written notice and an opportunity to cure at least 30 days before taking any action to enforce. The EEOC shall be authorized to seek compliance with the Consent Decree through civil action in the United States

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District Court. The EEOC also reserves the right to seek contempt sanctions for non-payment and non-compliance with this Court Order.

16. The parties to this Consent Decree agree to bear their own costs and attorney's fees associated with the above-referenced Complaints.

17. The term of this Decree shall be for 2 years.

SO ORDERED, ADJUDGED AND DECREED this 2 day of

November, 2006.


UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF TEXAS

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AGREED AS TO FORM AND SUBSTANCE:

FOR THE PLAINTIFF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:



ROBERT A. CANINO, Oklahoma State Bar No. 11782
Regional Attorney

SUZANNE ANDERSON, Texas State Bar No. 14009470
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FOR INTERVENOR MICHAEL CHANDLER:



LANCE VINCENT, State Bar No. 20585520


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Tel. No. 903-535-2900; Fax No. 903-533-8646

FOR DEFENDANT:



RANDALL J. COOK, State Bar No. 04744660

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909 ESE Loop 323, Suite 750
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TREY YARBROUGH, State Bar No. 22133500
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